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STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE

BEFORE THE TENNESSEE BOARD FOR LICENSING CONTRACTORS

BOARD MEETING
September 24, 2008

Marriott Knoxville
500 Hill Avenue, S.E.
Knoxville, Tennessee

BOARD MEMBERS

Cindi G. Debusk, Vice Chairman
Keith Whittington, Secretary
Frank Neal, Public Member
Jack Ronnie Tickle, Residential
Cliff Hunt, Highway

STAFF MEMBERS

Wayne Pugh, Esq.
Counsel for the Board

Carolyn Lazenby
Executive Director

Talise Roberts
Assistant Director

MINUTES OF RULEMAKING HEARING

SEPTEMBER 24, 2008

00002

9/24/08 RULEMAKING HEARING

1 TRANSCRIPT OF RULEMAKING HEARING

2 The following is a transcript of the
3 minutes of the Rulemaking Hearing of the Tennessee Board for
4 Licensing Contractors, which came on to be held on this the
5 24th day of September 2008, Vice Chairman Cindi DeBusk
6 presiding, the meeting being conducted at the Mariott
7 Knoxville, 500 Hill Avenue, S.E., Knoxville, Tennessee.

8 * * * * *

9 MS. DEBUSK: I would like to call the
10 September 24, 2008 meeting to order. We will start with the
11 roll call to my left.

12 MR. HUNT: Cliff Hunt, Memphis.

13 MR. TICKLE: Jack Tickle, Memphis.

14 MR. WHITTINGTON: Keith Whittington,
15 Johnson City.

16 MS. DeBUSK: Cindi Debusk, Knoxville.

17 MR. NEAL: Frank Neal, Maynardville.

18 MS. DeBUSK: This is our rulemaking
19 hearing. I'm going to turn it over to Wayne Pugh, chief
20 legal counsel.

21 MR. PUGH: Thank you. The rulemaking
22 hearing is called to order. My name is Wayne Pugh. I am
23 deputy general counsel for the Regulatory Boards Division,
24 Department of Commerce & Insurance. Carolyn, would you and
25 your staff introduce themselves for the record?

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00003

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1 MS. LAZENBY: Sure.

2 MR. PUGH: And please state your title.

3 MS. LAZENBY: I'm Carolyn Lazenby,

4 Executive Director.

5 UNIDENTIFIED SPEAKER: Kathy Holliman,

6 Administrative Assistant.

7 MS. ROBERTS: Talise Roberts, Assistant

8 Director.

9 MR. PUGH: Thank you. This is
10 Wednesday, September 24th. This rulemaking hearing is
11 taking place pursuant to Tennessee Code Annotated, Section
12 4-5-204, in the Riverview Room at the Marriott Hotel, 500
13 Hill Avenue Southeast, Knoxville, Tennessee.

14 The purpose of this rulemaking hearing
15 is to solicit comments on rules proposed by the Tennessee
16 State Board for Licensing Contractors. To add a new rule
17 regarding contracting in the name of -- as licensed and to
18 repromulgate rules necessary to regulate the home
19 improvement profession pursuant to Chapter 460 of the Public
20 Acts of 2007, which rolled the home improvement commission
21 into the Board for Licensing Contractors.

22 We do not have anyone wishing to make
23 comments on these rules, so I won't go into my paragraph
24 about that.

25 The Notice of Rulemaking Hearing, which
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00004

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1 everyone has a copy of, included the entire text of the
2 proposed rules and was published in the August 2008 edition
3 of the Tennessee Administrative Register. Carolyn, what
4 additional notice was given?

5 MS. LAZENBY: I also posted the notice
6 on the board in the Department's website. A notice was sent
7 to all the codes officials and we requested that they post
8 it in their office for the public. We e-mailed to all who
9 had signed up for our e-mail notification list, and also to
10 the Trade Association. And we also made sure the Home
11 Improvement Advisory Committee had a copy.

12 MR. PUGH: All right. Thank you. I
13 will make one comment. If you will look on the last page of
14 the rules, page 7, where it talks about the county adoption
15 of home improvement law.

16 Carolyn brought a situation to my
17 attention last week, I believe, where Johnson County is
18 attempting to repeal their county ordinance requiring that
19 they be licensed under the home improvement. I'm not quite
20 sure they have got it quite right, but I'm going to suggest,
21 because we do have other counties that may come on board and
22 everything, and if you have another county, then you have to
23 go into a rule making process to change it, that you delete
24 paragraph 1 under this rule and just leave paragraph 2. The
25 Board will keep a list which if anybody calls, they can

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00005

9/24/08 RULEMAKING HEARING

1 request it.

2 MR. HUNT: Could I ask a question?

3 MR. PUGH: Sure.

4 MR. HUNT: What does it take for the
5 counties to adopt it?

6 MR. PUGH: They just have to vote. 2/3
7 majority, I believe. Just as stated in the rule, by a 2/3
8 majority vote, the legislative body of the county has to
9 vote to adopt it.

10 MR. HUNT: To adopt the home
11 improvement --

12 MR. PUGH: Licensing provision. I'm not
13 going to summarize and read into the record all of the
14 rules. I will ask that the court reporter make an EXHIBIT
15 of the Notice of Rulemaking Hearing.

16 (Thereupon, a copy of the Notice of
17 Rulemaking Hearing was marked and filed as EXHIBIT 1.)

18 MR. PUGH: Does anybody else have any
19 comments at all?

20 MR. HUNT: I have a question. What
21 changes could we make at this hearing?

22 MR. PUGH: You can make minor changes.
23 You cannot make any substantial change that is not in the
24 Notice of Rulemaking book. If you are making a substantial
25 change, then we have to go renote it and have a new

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00006

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1 rulemaking hearing.

2 MR. HUNT: Would a change in the fee
3 schedule be a minor change?

4 MR. PUGH: You could make a change in
5 the fee schedule. Do we have a fee schedule in this
6 proposal?

7 MS. LAZENBY: Yes, it is on page 2.

8 MR. PUGH: Page 2? Yes. Okay. You
9 could do that, but that gets into after the rulemaking
10 appeals to do that and then you discuss. Right now, the
11 rulemaking hearing is only to solicit comments. So, since
12 we have had no comments, I'm going to declare that this
13 rulemaking hearing is closed.

14 MR. NEAL: Did you get an answer to your
15 question?

16 MR. HUNT: I think so.

17 MR. NEAL: We can't do anything is what
18 he is saying.

19 MR. PUGH: No, you can do some things.
20 You can do -- You can't make a substantial change, but the
21 Notice included the fees. So, if you want to look at and
22 discuss some changes to what has been proposed here, you can
23 do that.

24 MR. HUNT: Did we close the public
25 comment part of the program?

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00007

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1 MR. PUGH: The rulemaking hearing has
2 been closed. It is now back to the board for discussion on
3 the rules.

4 MR. TICKLE: The sub-committee on home
5 improvement has looked at this?

6 MS. LAZENBY: Yes.

7 MR. TICKLE: And they have reviewed it?

8 MS. LAZENBY: Yes.

9 MS. DeBUSK: Okay. So, do we have a
10 motion to adopt the rules?

11 MR. HUNT: So move.

12 MR. TICKLE: Second.

13 MS. DeBUSK: Discussion?

14 MR. HUNT: Back to the fees (Inaudible)
15 we are asked to today (Inaudible) aware that we are
16 producing more fees than we have expenditures and at some
17 point I would like to consider reducing the fees to be more
18 closely aligned with what our actual expenditures are. And
19 I don't know what that amount needs to be, but I would like
20 for us to investigate that and try to determine what is more
21 appropriate.

22 Primarily the renewal fee that
23 replaced -- (Inaudible) -- because the application fee,
24 there are expenses involved in that and (Inaudible) staff
25 and parts of the application and the process and it be

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00008

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1 placed in review, but -- (Inaudible).

2 MS. DeBUSK: Is that something that

3 (Inaudible)?

4 MR. HUNT: I would like for us to put
5 together a committee. This may not be the time to make that
6 in the form of a motion.

7 MR. PUGH: Do we have a motion to
8 approve the rules?

9 MR. HUNT: Yeah.

10 MS. LAZENBY: Could we put it on the
11 agenda to the next board meeting?

12 MR. HUNT: That would be fine.

13 MR. PUGH: May I make a suggestion as to
14 the rules that someone maybe move to reconsider and make the
15 motion to adopt the rules as published in the Notice of
16 Rulemaking Hearing with the deletion of paragraph 1 in the
17 last rule?

18 MR. HUNT: I will change my motion to
19 reflect that. Technically, I guess paragraph 2 will become
20 paragraph 1.

21 MR. PUGH: It will become the sole
22 paragraph in that rule.

23 MR. HUNT: Sole paragraph.

24 MS. DeBUSK: Okay. Do we have a second
25 to the motion?

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00009

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1 MR. HUNT: I will second it.

2 MR. PUGH: You need to do it by a roll

3 call vote.

4 MS. DeBUSK: Okay. We will do it by

5 roll call vote.

6 MR. NEAL: Do we have any other
7 discussion about this before we vote on that motion on a
8 totally different subject than that?

9 MS. DeBUSK: Okay. So, the motion on
10 the table now is to adopt the rules?

11 MR. PUGH: That is not my advice.

12 MS. DeBUSK: Okay. Deleting the
13 paragraph?

14 MR. PUGH: Right.

15 MS. DeBUSK: On the first paragraph?

16 MR. NEAL: And there has been a second
17 to that motion. So, if you wish to discuss that motion, you
18 can.

19 MR. NEAL: Okay. Well, kind of along
20 the lines of that motion, the way I read this thing, the
21 only thing it affects is the home improvement contractor.

22 MS. LAZENBY: It does, the home
23 improvement contractor.

24 MR. NEAL: It has no bearing --

25 MS. DeBUSK: (Interposing) -- Except for

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9/24/08 RULEMAKING HEARING

1 the name change applied for with the contractors.

2 MR. PUGH: Right. So, all of it

3 except --

4 MR. NEAL: (Interposing) -- Where is the
5 name change for the contractors?

6 MR. PUGH: It is on page 1.

7 MR. NEAL: Page 1?

8 MS. LAZENBY: I do have one comment.

9 Our fees do say per business location. And that is sort of
10 how they were before. So, I interpret this to mean that if
11 each home improvement office -- each home improvement
12 company had more than one office, they would need more than
13 one license. They would?

14 MR. PUGH: That is the way I would read
15 that rule.

16 MS. LAZENBY: So, is that okay? I don't
17 know if you all realized that.

18 MR. HUNT: What page?

19 MS. LAZENBY: It is page 2.

20 MR. HUNT: Is how that the fees for the
21 contractor reads?

22 MS. LAZENBY: No. The contractors
23 always have a license for each entity, no matter how many
24 offices they have.

25 MR. NEAL: But the home improvement --

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00011

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1 MS. LAZENBY: Home improvement, they
2 wouldn't be required to have a license for every office. An
3 example would be Home Depot. They would need a license in
4 every -- each county.

5 MR. PUGH: For every store.

6 MS. DeBUSK: Every store.

7 MR. TICKLE: For each store.

8 MR. PUGH: Right. Every store. The
9 Real Estate Commission, you have to have a license for each
10 office that you have.

11 MS. LAZENBY: Even though that county
12 doesn't require a license?

13 MR. PUGH: Right. I mean, just the Real
14 Estate Commission has the business location license and each
15 office has to have a license.

16 MR. NEAL: How about Lowe's and Home
17 Depot?

18 MS. LAZENBY: I don't think they are
19 aware of this because really --

20 MR. HUNT: Well, they have a
21 contractor's license. They don't have a home improvement
22 license.

23 MS. LAZENBY: Okay. They also have a
24 home improvement license. So, maybe the contractor -- I
25 don't know. Just make sure that the companies like that are

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1 covered and notified.

2 MR. HUNT: Is there anyone else involved
3 in that category or -- (Inaudible) -- Sears is.

4 MS. LAZENBY: Yeah, Sears.

5 MR. HUNT: (Inaudible) -- Contractor's
6 license -- (Inaudible) -- home improvement.

7 MR. TICKLE: Home improvement fees.

8 MS. LAZENBY: Some of the siding and
9 window companies, like Champion. Some of the siding and
10 window companies?

11 MR. HUNT: Carolyn, is that our intent?
12 Is that our intent, to make it -- (Inaudible)

13 MS. LAZENBY: Do what?

14 MR. NEAL: (Inaudible)

15 MS. LAZENBY: For contractors?

16 MR. NEAL: Yes.

17 MS. LAZENBY: We needed these fees due
18 to the -- (inaudible). We sort of needed these in place
19 right away. So, we just went ahead and done these for now,
20 but we will have more rulemakings because Wayne realizes now
21 that we need several rules changed, so --

22 MR. PUGH: Yes, and --

23 MR. TICKLE: (Interposing) -- This
24 number 2 is really -- (Inaudible) -- It depends on how you
25 interpret it, per location. Let's just use Home Depot here.

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1 Let's just say there is three in Knoxville and three in
2 Memphis and three in Chattanooga there -- (Inaudible).

3 MR. NEAL: That is a lot.

4 MS. LAZENBY: It may have been because
5 it was a bond and since each location has to have a bond,
6 maybe that is why they had it in there, but -- And I'm sorry
7 I didn't catch that sooner.

8 MS. DeBUSK: Just a part of the cost of
9 doing business for each location.

10 MS. LAZENBY: Should we leave it as-is?
11 I guess we would have to.

12 MS. DeBUSK: Do we need to deal with
13 the -- handle the motion that is on the table currently?

14 MR. NEAL: Call for a question.

15 MR. PUGH: If I may, how are we handling
16 this right now? Are we requiring a license for each
17 location? Are we requiring a bond for each location, a
18 separate bond?

19 MS. LAZENBY: Yes.

20 MR. PUGH: Okay.

21 MS. LAZENBY: Okay.

22 MR. PUGH: Question has been called.

23 MS. DeBUSK: Vote?

24 MR. HUNT: Cliff Hunt, yes.

25 MR. TICKLE: Jack Tickle, yes.

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9/24/08 RULEMAKING HEARING

1 MR. WHITTINGTON: Keith Whittington,
2 yes.
3 MS. DeBUSK: Cindi Debusk, yes.
4 MR. NEAL: Frank Neal, yes.
5 MS. DeBUSK: The motion carries.
6 MR. PUGH: I believe that is all the
7 business in front of the board.
8 MS. DeBUSK: Do we have a motion to
9 adjourn?
10 MR. HUNT: So move.
11 MR. NEAL: Second.
12 MS. DeBUSK: Adjourned.
13 Thereupon, the rulemaking meeting
14 adjourned.

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C E R T I F I C A T E

I do hereby certify that the foregoing transcript is a true, complete, and accurate record of the minutes of the rulemaking hearing of the Board for Licensing Contractors.

I do hereby further certify that I am of neither kin, counsel nor interest to any party hereto.

James G. Parks
Court Reporter

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